

**MEMO ENDORSED**

**NRDC**

November 15, 2019

By ECF

Honorable Valerie E. Caproni  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

USDC SDNY  
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Re: *Natural Resources Defense Council, Inc., et al. v. U.S. Department of the Interior, et al.*, 18-CV-4596 (VEC), consolidated with *National Audubon Society, et al. v. U.S. Department of the Interior, et al.*, 18-CV-4601 (VEC), and *State of New York, et al. v. U.S. Department of the Interior, et al.*, 18-CV-8084 (VEC)

Dear Judge Caproni:

The parties in the above-captioned consolidated cases jointly submit this letter in response to the Court's order of November 1, 2019, ECF No. 60. As described in earlier letters, the parties have engaged in meet-and-confer discussions regarding materials to include in and exclude from the administrative record in these cases. *See* ECF Nos. 57, 59. The parties have now reached agreement on the scope of the administrative record. Defendants will send the complete, agreed-upon administrative record to the Plaintiffs today, and will lodge the administrative record with the Court on or before Wednesday, November 20, 2019.

The parties have also reached agreement on the following matters related to the forthcoming cross-motions for summary judgment:

**Proposed Schedule:** The parties had earlier proposed, and the Court ordered, that Plaintiffs' motions for summary judgment be due 45 days after the scope of the administrative record is resolved, *see* ECF Nos. 54, 55, which—in light of today's letter—would be Monday, December 30, 2019. Given counsel's conflicting obligations in other cases and upcoming holidays, however, Plaintiffs respectfully request that their deadline to file summary judgment motions be extended to Friday, January 17, 2020. This is Plaintiffs' first request to extend the summary judgment deadline, and Defendants do not object to this request.

This change in the briefing schedule would—if the prior timelines remained in place—also make Defendants' reply brief due on April 22, 2020. Given counsel's family obligations around that time, Defendants respectfully request that the deadline to file that reply brief be extended to Friday, May 1, 2020. Plaintiffs do not object to this request.

**NATURAL RESOURCES DEFENSE COUNCIL**

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Accordingly, the new proposed schedule for briefing cross-motions for summary judgment would be:

- Plaintiffs' motions for summary judgment due January 17, 2020.
- Defendants' cross-motion for summary judgment and opposition to Plaintiffs' motions due March 2, 2020, which is 45 days after Plaintiffs' motions.
- Plaintiffs' replies in support of their motions and oppositions to Defendants' cross-motion due April 1, 2020, which is 30 days after Defendants' cross-motion.
- Defendants' reply in support of their cross-motion due May 1, 2020, which is 30 days after Plaintiffs' oppositions.

**Page Limits:** The NRDC Plaintiffs and Audubon Plaintiffs previously agreed to file joint briefs at the summary judgment stage, *see* ECF No. 54, and noted, pursuant to the Court's suggestion, *see* ECF No. 53 at 7, that they would likely seek leave to file longer briefs. Accordingly, the NRDC Plaintiffs and Audubon Plaintiffs respectfully request that their joint briefs at the summary judgment stage be limited to 40 pages, which is less than the 50 pages they would have collectively had if they were filing separate briefs. Defendants do not object to this request.

The State Plaintiffs do not request any changes to the default 25-page limit for their briefs at the summary judgment stage.

Defendants respectfully request a limitation of 60 pages for their cross-motion/opposition brief, and 30 pages for their reply. Plaintiffs do not object to this request

**Statements of Undisputed Fact:** Because these cases arise under the Administrative Procedure Act (APA), and the Court's review of the challenged agency action will be based on the administrative record, the parties understand that Local Rule 56.1 Statements of Undisputed Fact are not required. *See, e.g., Just Bagels Mfg., Inc. v. Mayorkas*, 900 F. Supp. 2d 363, 372 n. 7 (S.D.N.Y. 2012) (directing parties not to submit Local Rule 56.1 statements in APA case); *Brodsky v. U.S. Nuclear Regulatory Comm'n*, No. 09-cv-10594 (LAP), 2015 WL 1623824, \*3 (S.D.N.Y. Feb. 26, 2015) (similar). The parties respectfully request that the Court confirm the parties' understanding.

We thank the Court for its consideration of and attention to these matters.

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Respectfully submitted,

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IT IS HEREBY ORDERED that the parties' proposed briefing schedule and page limits are adopted.

Local Rule 56.1 Statements are not required in this case.

cc: ECF service list

SO ORDERED.

  
11/18/2019

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE